

REMARKS

Substance of Interview

Applicant's representative Elliott Mason (Reg. No. 56,569) thanks the Examiner for the telephone interview on December 14, 2006. As requested in the Interview Summary form PTOL-413 mailed by the Examiner on December 26, 2006, and in accordance with MPEP Section 713.04, the substance of the interview is included herein. No exhibits were shown. Claim 1 was discussed with respect to the cited reference Kern. The Examiner indicated that he was not giving patentable weight to the stored "wavefront data" based on the language in claim 1 reciting that the memory element is "storing wavefront data." While Applicant's representative did not agree that this was proper, to advance prosecution, Applicant's representative proposed an amendment reciting "a memory element that has stored therein wavefront data ...," which the Examiner agreed could potentially give the stored "wavefront data" patentable weight.

Additional issues discussed were the interpretation of the term "aberration" in claim 1, and that implantation at a location in an eye represents an intended use for the vision prosthesis to be moved into the preamble of claim 1. No agreement on the allowability of claims was reached.

Prior Art Rejections

Claims 1, 8-11, 13 and 14 stand rejected under 35 U.S.C. 102(b) as anticipated by Kern (U.S. 4,601,545).

Claim 1

Applicant submits that Kern neither discloses nor suggests at least "a memory element that has stored therein wavefront data selected to control an index of refraction profile of the optical element to selectively modify the characteristic function of the optical element to reduce high-order aberration in the eye," as recited by amended claim 1. In the Office Action, the Examiner identified the RAM or ROM in the CPU 54 described in Kern as the recited "memory element." Applicant submits that if the Examiner now gives patentable weight to the recited

“wavefront data” stored in the memory element, that Kern does not disclose “wavefront data selected to control an index of refraction profile of the optical element to selectively modify the characteristic function of the optical element to reduce high-order aberration in the eye.”

Moreover, upon reading Kern, one of ordinary skill would not have been motivated to store such wavefront data in the RAM or ROM of Kern.

Dependent claims 8-11, 13 and 14

The remaining claims are all properly dependent on claim 1, and are thus allowable therewith. The dependent claims also include further limitations not disclosed or suggested by Kern.

For example, the Examiner argues that the “radio or wireless controller is disclosed for use with an antenna/receiver and meets the structural limitations of the claimed rangefinder.” To the contrary, Kern describes that “an antenna may be provided for radio or wireless control, and a radio receiver (not shown) may be incorporated into the integrated structure of the CPU 54, gate 58 and sensor 60.” However, no structure for such an antenna (or a controller used with such an antenna) is described that is even capable of “generating, from a stimulus, an estimate of a distance to an object-of-regard,” as recited by claims 8 and 13. Therefore, Kern’s description does not meet the structural limitations of the claimed rangefinder.

The dependent claims also add one or more further limitations, which are not presently relied upon to establish patentability. For that reason, and not because Applicant agrees with the Examiner, no rebuttal is offered to the Examiner’s other reasons for rejecting the dependent claims.

Claims 15-17

Claims 15-17 also appear to have been rejected, but no indication is given as to the basis for the rejection of these claims, and thus the rejection of these claims is not proper.

Applicant : Dimitri T. Azar
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New claims 20-22

New dependent claims 20-22 are supported throughout the original specification and drawings including, for example, at: page 7, lines 21-22; page 3, lines 27-29; and page 2, lines 16-18. Claims 20-22 depend on claim 1 and are allowable therewith.

The required amount of \$225 for the Petition for Extension of Time fee is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply all charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 00633-041001.

Respectfully submitted,

Date: 1/09/07

/Elliott J. Mason, III/

Elliott J. Mason, III Reg. No. 56,569

Fish & Richardson P.C.
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

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